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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,403	12/30/2003	Earl L. Hatley	H0004635	7547
128	7590	08/25/2006		EXAMINER
HONEYWELL INTERNATIONAL INC. 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245				PATTERSON, MARC A
			ART UNIT	PAPER NUMBER
				1772

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/748,403	HATLEY, EARL L.
	Examiner	Art Unit
	Marc A. Patterson	1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 19 July 2006.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-23 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION****WITHDRAWN REJECTIONS**

1. The 35 U.S.C. 103(a) rejection of Claims 1 – 8, 10 – 17 and 19 – 23 as being unpatentable over Ohba et al (U.S. Patent No. 6,605,344 B1) in view of Moritani et al (U.S. Patent No. 5,069,946), of record on page 2 of the previous Action, is withdrawn.
  
2. The 35 U.S.C. 103(a) rejection of Claims 9 and 18 as being unpatentable over Ohba et al (U.S. Patent No. 6,605,344 B1) in view of Moritani et al (U.S. Patent No. 5,069,946) and further in view of Reading (U.S. Patent No. 3,038,811), of record on page 2 of the previous Action, is withdrawn.

**NEW REJECTIONS*****Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 8, 10 – 17 and 19 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berrier et al (U.S. Patent Publication No. 2004/0121054 A1).

With regard to Claims 1 – 5, 13 – 15 and 22 – 23, Berrier et al discloses a packaged food (paragraph 0002) packaged in a pouch (paragraph 0072) formed from a film comprising a first layer comprising polyamide (nylon 6; paragraph 0056) and a second layer comprising a layer of nylon 6,66 which is used to seal the package

(paragraph 0045), therefore comprising a nylon 6 moiety and a nylon 66 moiety; the package is therefore sealed via the nylon 6,66 layer; the film is formed by coextrusion (paragraph 0081); the package comprises two layers (paragraph 0016) and therefore consists essentially of the two layers. Berrier et al fail to disclose a package that contains produce. However, Berrier et al disclose a package which comprises food, as stated above. It would therefore be obvious for one of ordinary skill in the art to provide for any food that is cooked, including produce. The claimed aspect of the film being gas permeable is inherent to Berrier et al, as Berrier et al is identical to the film of the claimed invention.

With regard to Claims 10 and 19, Berrier et al discloses a seal layer comprising nylon 6,66, as stated above, and therefore discloses a seal layer having a seal strength of at least 700 grams as it is the claimed seal layer.

With regard to Claims 11 – 12, 20 and 21, Berrier et al disclose the sealing of a single polyamide film to itself to produce the package and the sealing of two films that are overlapped (paragraph 0084).

With regard to Claims 6 – 8 and 16 – 17, the thickness of the polyamide film disclosed by Berrier et al is 30  $\mu\text{m}$  (paragraph 0080).

5. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berrier et al (U.S. Patent Publication No. 2004/0121054 A1) in view of Reading (U.S. Patent No. 3,038,811).

Berrier et al disclose a package as discussed above. The package is used for the boiling of the food (paragraph 0015 of Berrier et al). With regard to Claims 9 and 18, Berrier et al fails to disclose a package comprising perforations.

Reading teaches the making of perforations (column 2, lines 24 – 29) in a package for food (column 1, lines 8 – 16) which is used for the boiling of the food (column 2, lines 11 – 17) for the purpose of obtaining a package that releases pressure that develops (column 2, lines 24 – 29). One of ordinary skill in the art would therefore have recognized the advantage of providing for the perforations of Reading in Berrier et al, which is a package for food, depending on the desired release of pressure of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for perforations in Berrier et al in order to obtain good adhesion to obtain a package that releases pressure that develops as taught by Reading.

#### ANSWERS TO APPLICANT'S ARGUMENTS

6. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 1 – 8, 10 – 17, 19 – 20 and 22 – 24 as being unpatentable over Ohba et al (U.S. Patent No. 6,605,344 B1) in view of Moritani et al (U.S. Patent No. 5,069,946) and 35 U.S.C. 103(a) rejection of Claims 9 and 18 as being unpatentable over Ohba et al (U.S. Patent No. 6,605,344 B1) in view of Moritani et al (U.S. Patent No. 5,069,946) and further in view of Reading (U.S. Patent No. 3,038,811), of record in the previous Action, have been

carefully considered and have been found to be persuasive. The rejections are therefore withdrawn. The new rejections above are directed to amended Claims 1 – 23.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 8/21/06*  
Marc A. Patterson, PhD.  
Primary Examiner  
Art Unit 1772